

HOUSE BILL 1191
By Buck

AN ACT to enact the "Sunshine in Litigation Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act may be cited as the "Sunshine in Litigation Act".

SECTION 2. As used in this act, "public hazard" means an instrumentality including but not limited to any device, instrument, person, procedure, product, or a condition of a device, instrument, person, procedure or product, that has caused and is likely to cause injury.

SECTION 3. Except pursuant to this act, no court shall enter an order or judgment which has the purpose or effect of concealing a public hazard or any information concerning a public hazard, nor shall the court enter an order or judgment which has the purpose or effect of concealing any information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard.

SECTION 4. Any portion of an agreement or contract which has the purpose or effect of concealing a public hazard, any information concerning a public hazard, or any information which may be useful to members of the public in protecting themselves from injury which may result from the public hazard, is void, contrary to public policy and may not be enforced.

SECTION 5. Trade secrets as defined in §47-25-1702(4) which are not pertinent to public hazards shall be protected pursuant to Title 47, Chapter 25, Part 17.

SECTION 6. Any substantially affected person, including but not limited to representatives of news media, has standing to contest an order, judgment, agreement, or contract that violates this act by motion in the court that entered the order or judgment, or by bringing a declaratory judgment action pursuant to Tennessee Code Annotated, Title 29, Chapter 14, Part 1.

SECTION 7. Upon motion and good cause shown by a party attempting to prevent disclosure of information or materials which have not previously been disclosed, including but not limited to alleged trade secrets, the court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions thereof consist of information concerning a public hazard or information which may be useful to members of the public in protecting themselves from injury which may result from a public hazard, the court shall allow disclosure of the information or materials. If allowing a disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public regarding the public hazard.

SECTION 8.

(a) Any portion of an agreement or contract which has the purpose or effect of concealing information relating to the settlement or resolution of any claim or action against the state, its agencies, or subdivisions or against any municipality or constitutionally created body or commission is void, contrary to public policy, and may not be enforced. Any person has standing to contest an order, judgment, agreement, or contract that violates this section. A person may contest an order, judgment, agreement, or contract that violates this subsection by motion in the court that entered such order or judgment, or by bringing a declaratory judgment action pursuant to title 29, chapter 14, part 1.

(b) Any person having custody of any document, record, contract, or agreement relating to any settlements as set forth in this section shall maintain said public records in compliance with title 10, chapter 7.

(c) Failure of any custodian to disclose and provide any document, record, contract, or agreement as set forth in the section shall be subject to the sanctions as set forth in title 10, chapter 7.

This subsection does not apply to trade secrets protected pursuant to title 47, chapter 25, part 17, proprietary confidential business information, or other information that is confidential under state or federal law.

SECTION 9. This act shall take effect July 1, 2005, the public welfare requiring it.